Michał SOPIŃSKI[1]

Nationalisation of agricultural lands and forests in Poland after World War II[2]

Abstract

The article discusses how the post-war nationalisation of agricultural lands and forests, and the associated other expropriation activities were a far-reaching consequence of the outbreak of World War II. The article explains the political and historical circumstances of the nationalisation of agricultural lands and forests in Poland after World War II. Special attention was paid to the legal regulation of nationalisation of agricultural land, as well as the nationalisation of forests and forest lands. The conclusion discusses the legality of land nationalisation from the aspect of the legal acts in force at the time. Based on that, we may conclude that the nationalisation of agricultural lands and forests in Poland after World War II, executed by the communists, did not respect the law, particularly in view of the constitutional issue of pre-war Poland.
Keywords: nationalisation, property, history of law, agricultural lands and forests

Introduction

The post-war nationalisation of agricultural lands and forests, and the other associated expropriation activities were a far-reaching consequence of the outbreak of World War II and the related changes of a political, economic and social nature in Poland. However, at the same time, it should be borne in mind that the actual form of the property structure in the Second Republic also had a significant impact on the extent of the ownership transformations that took place as part of the post-war nationalisation processes.

The Polish literature on the subject points out that the post-war transition of property in Poland from the private to the public domain — which provided

1 | Michał SOPIŃSKI, PhD, 0000-0001-5429-601X (ORCID) University of Justice (Poland)
2 | *The research and preparation of this study was supported by the Central European Academy.*

Michał SOPIŃSKI: Nationalisation of agricultural lands and forests in Poland after World War II. *Journal of Agricultural and Environmental Law* ISSN 1788-6171, 2024 Vol. XIX No. 37 pp. 307-324

https://doi.org/10.21029/JAEL.2024.37.307

the foundations of the communist state — had a strong ideological justification interrelated with the economic programs of the then leading political powers with a socialist-communist orientation[3]. The "Manifesto of the Polish Committee of National Liberation" of July 22, 1944 (also known as the "July Manifesto" or the "PKWN Manifesto") should be the primary point of reference in the presentation of political and economic concepts for the formation of the post-war property structure. This is because it presented a comprehensive scheme for the political and economic transformations that were to take place in post-war Poland, which was under the Soviet sphere of influence. At the same time, however, it should be noted that one of the main purposes of publishing the Manifesto was to win broad public support for the Soviet-installed future state authorities.

Therefore, in the declarative sphere, the "Manifesto of the Polish Committee for National Liberation" did not explicitly call for the nationalisation of property, but only aimed at the restitution of property seized by the German occupation authorities. In fact it stated that "Property looted by the Germans from individual citizens, peasants, merchants, artisans, small and medium-sized industrialists, institutions and the Church will be returned to the rightful owners. (...) national assets concentrated today (...) in German hands, that is, large industrial, commercial, banking, transport enterprises and forests, will come under the Provisional State Administration; as economic relations are regulated, ownership will be restored".[4]

Moreover, it should also be noted that the provisions of the Manifesto of the Polish Liberation Committee regarding the implementation of land reform in Poland did not differ significantly from the demands of the declarations of the Polish Workers' Party and the Council of National Unity discussed above, in terms of the manner and scope of its implementation. Indeed, the Manifesto of the Polish Committee for National Liberation provided for the reconstruction of the agricultural system by taking over farms of more than 50 hectares (and more than 100 hectares in post-German areas) "without compensation but with provision for the former owners".[5] In turn, the property thus seized was to be subsequently distributed for a minimal fee to landless and smallholder peasants, with landowners who distinguished themselves in the fight against the German invaders to receive a higher provision, while lands belonging to the Church were to be completely excluded from this property reform.

In light of these facts, it should be concluded that the wording of the Manifesto of the Polish Committee of National Liberation did not envisage radical changes taking place later in the property structure of post-war Poland. However, these changes were later carried out by the communist authorities. Thus, this meant

3 | See more about the transition of property in Poland from the private to the public domain: M. Sopiński, Problem reprywatyzacji : doświadczenia, argumenty, rozwiązania, Warszawa, 2020.
4 | The Manifesto of the Polish Committee for National Liberation (Annex to OJ 1944 No. 1).
5 | The Manifesto of the Polish Committee for National Liberation (Annex to OJ 1944 No. 1).

a significant mismatch between the declarative layer of the Manifesto of the Polish Committee of National Liberation, which did not draw patterns from the USSR, and the actual actions of the Polish communists taken after the permanent installation of Soviet power in Poland. As T. Kowalik notes, the reason for this state of affairs may have been the desire to silence "the vigilance of the opponents of the excessive statisation of the national economy".[6]

Political and historical circumstances of the nationalisation of agricultural lands and forests in Poland after World War II

Turning to the subject of actual Communist activities, it should be noted that the gradual seizure of power in Poland by the puppet Polish Committee for National Liberation — which was a de facto extension of the previously occupying Soviet government — involved significant decisions by the latter not only in the political, but also in the economic field. As T. Luterek rightly states: "It is no coincidence that one of the first acts of the Polish Committee for National Liberation was the decree to carry out a land reform. It was intended to win support for the newly formed communist government among landless and smallholder peasants".[7] At the same time, the real reason for the Communists to carry out land reform was not to parcel out the land, but to achieve the goals of the Communist Revolution, for in the Soviet Union, which was the political model for the People's Republic of Poland, the model of collectivisation of agriculture was already implemented during 1927-1932.

However, in 1944 the communist authorities were not yet established in Poland, and feared the reaction of the peasants to the introduction of the Soviet model, hence they decided on the seemingly illogical move of parcelling out the multi-hectare landholdings among the peasants and only later — when the people's power would be firmly established — performing their gradual collectivisation.

The concept of collectivisation is important in this regard because, as T. Luterek notes: "the word 'collectivisation' was among the most exterminated by the censors (an institution completely under the control of the communists) in Poland at that time. Thus, they were fully aware that if they started with the introduction of the Soviet model, they would have great problems with the seizure of power".[8] The fundamental changes introduced by the communists were mainly in the area of property.

In terms of time, the first significant interference by the Communists in the pre-war property structure was the agrarian reform initiated by the decree of the Polish Committee of National Liberation on September 6, 1944. In order to execute

6 | T. Kowalik, Spory o ustrój społeczno-gospodarczy w Polsce. Lata 1944-1948, Warszawa 2006, 47.
7 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 99.
8 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 103.

this efficiently, the communist authorities invented the Land Offices. According to the provisions of this decree, forced parcellation without compensation applied to those estates that exceeded 50 hectares of agricultural land, or a total area of 100 hectares. The parcelled land was then distributed among peasants, who could take ownership for a relatively small sum.

As for the manner in which the communists carried out the land reform, as M. Bałtowski notes, "initially it took place, at least in principle, with all the necessary procedures performed by the representatives of the Ministry of Agriculture and Agrarian Reform of the Polish Committee for National Liberation, such as surveying plots of land, determining their value, making appropriate entries in the land registers".[9] The reason for carrying out these legalistic procedures was the desire of the communists to gain broad public support for the land reform, and to give it a legal dimension that would make the transition of ownership to be considered as irreversible. However, these measures were quickly abandoned, and the implementation of the land reform was then carried out by using revolutionary methods rather than legal means. Thus, this hasty method of executing the land reform soon raised numerous doubts among the public. From a legal standpoint, criticism was levelled at the fact that the land reform itself — which was a key decision at the time from both an economic and a social aspect — was not performed on the basis of an act of statutory rank, but on the basis of a decree issued by a communist authority with no legitimacy to exercise power other than de facto at the time. In social terms, the revolutionary violence coupled with the land reform, of the former owners of the seized property, was based on the hatred and fuelled by the communist authorities, was highly controversial. For it is a fact that the former landowners could be removed upon the decision of the communist authorities by grange committees within three days of the commencement of parcelling, and could not thereafter even come within reach of the former estates.

At the same time, it should also be noted that the agrarian reform carried out by the communist authorities did not have a homogeneous character across the entire territory of Poland, for, depending on the area, there were differences in the speed and scope of implementation. This dissimilarity is emphasised by J. Kaliński, stating that "the manner in which the land reform was implemented differed from one district of the country to another, depending on the size of the existing land reserve, population, the number and structure of farms, and local traditions".[10] Thus, for the lands on the right bank of the Vistula, land reform was essentially completed as early as in the first months of 1945. It was assumed that after the land was parcelled out, the new peasant farms were to be 5 hectares each; however, in reality they were smaller. On the other hand, regarding the lands — where the parcellation process was carried out on the basis of the decree of September 6, 1946, on the agricultural

9 | M. Bałtowski, Gospodarka socjalistyczna w Polsce, Warszawa 2009, 148.
10 | J. Kaliński, Historia gospodarcza XIX i XX wieku, Warszawa 2004, 250.

system and settlement on the territory of the Recovered Territories and the former Free City of Danzig — related to the agrarian reform, the parcels of parcelled land were significantly larger, ranging from 7 to 15 hectares. The maximum area of new farms was also larger, which was set at 20 hectares. At the same time, in the so-called Recovered Territories, the implementation of an agricultural policy based on the state involvement also started, with the establishment of the institution of State Land Properties. In 1949, after the merger of the State Land Properties with the State Plant Breeding Establishments and the State Horse Breeding Establishments, State Agricultural Farms, or so-called PGRs, were established. It should be noted here that as early as 1948, some 2.2 million hectares were under the control of the state government, which accounted for about 11% of the share of all agricultural land. However, it should also be mentioned that a certain part of the agricultural land was completely independent from the Polish state authorities, as the Red Army stationed in Poland exercised actual control over it.

Analysing the land reform carried out by the communists, it is necessary to present statistics on its effects. At the end of 1949, the area of land distributed in Poland amounted to 6.07 million hectares, of which 2.38 million hectares were distributed in the so-called Old Lands, while 3.69 million hectares were distributed in the so-called Recovered Lands; thus, 1.068 million farms were created (or existing ones were enlarged), 601,000 of which in the Old Lands and 467,000 in the Recovered Territories[11].

Summarising the above considerations, it should still be said that a far-reaching consequence of the land reform was the emergence of an excessively fragmented agrarian structure of individual farms, as most of these areas did not exceed 5 hectares. As J. Kaliński writes: "The preservation of more than 61% of the share of dwarf farms (about 2 hectares) and smallholder farms (2-5 hectares), covering 23% of the land area, meant agreement on the low commodity nature of Polish agriculture and its extensive development with the use of labour reserves in the countryside".[12] In addition, the land reform carried out by the communists, as M. Bałtowski notes, "also caused the permanent liquidation... of the landed gentry layer, which was the historical mainstay of Polishness. On the basis of the agrarian reform decree, more than 13,000 landed estates were parcelled out or taken into ownership".[13] The disappearance of the landed gentry layer was also noted in contemporary jurisprudence of the Polish Constitutional Court, which stated that "the PKWN Decree of September 6, 1944, on the implementation of the land reform not only ... did not make changes in the structure of agricultural property, but through the scope and manner of its implementation destroyed the Polish landed gentry as a social group and the category of producers satisfying a specific function in the

11 | M. Bałtowski, Gospodarka socjalistyczna w Polsce, Warszawa 2009, 149.
12 | J. Kaliński, Historia gospodarcza XIX i XX wieku, Warszawa 2004, 251.
13 | M. Bałtowski, Gospodarka socjalistyczna w Polsce, Warszawa 2009, 149.

economic structure of the country. Under the conditions of the time, it was one of many measures aimed at weakening society's ability to resist the imposed political system and the ideology underpinning it".[14] At the same time, however, it should be remembered that the largest pre-war landed estates remained outside Poland's borders in the so-called Borderlands after World War II, and thus were not subject to the 1944 land reform, and were taken into the public domain (in this case, the USSR) through other measures.

The far-reaching and at the same time disastrous effect of the land reform is pointed out at the same time by T. Luterek, stating that it led to the collapse of "(...) most of the most valuable building objects of the highest historical value, which are testimony to the achievements of material culture in the Polish lands".[15] This can be seen very vividly with regards to the condition and number of palace and manor buildings. The agrarian reform and its aftermath caused the destruction of more manor complexes than during the two world wars. The material decline and loss of importance in the consciousness of the rural community derailed the momentous, guiding role and function of the manor house. The worst was the situation of the estates that were parcelled out, as the manor and farm buildings became unnecessary and, as a kind of no-man's land, were subsequently ruined. Also contributing to this was the propaganda of the time, which treated these buildings as a symbol of the overthrown system. The destroyed mansions were to serve as a monument to the new order in the countryside.

Finally, it should also be noted that the implementation of land reform was accompanied by the nationalisation of forests, which resulted in more than 85% of Poland's forested areas falling into state hands.

Legal regulations on the nationalisation of agricultural lands

Legal regulations on the nationalisation of agricultural lands from the private to the public domain were included in various legal acts issued by the communist authorities at the time, of which the most important ones are:

- Decree of the Polish Committee for National Liberation of September 6, 1944, on the implementation of land reform ("Journal of Laws" 1945, No. 3, item 13, as amended); [in Polish: Dekret Polskiego Komitetu Wyzwolenia Narodowego z 6 września 1944 roku o przeprowadzeniu reformy rolnej („Dziennik Ustaw" 1945, nr 3, poz. 13 z późn. zm.)];
- Ordinance of the Minister of Agriculture and Agrarian Reform of March 1, 1945, on the implementation of the decree of the Polish Committee for National Liberation

14 | Order of the Constitutional Court of November 28, 2001, SK 5/2001, "Ruling of the Constitutional Court," 2001, no. 8/2001, item 266.
15 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 113.

of September 6, 1944 on carrying out the land reform ("Journal of Laws" 1945, no. 10, item 51, as amended); [in Polish: Rozporządzenie Ministra Rolnictwa i Reform Rolnych z 1 marca 1945 roku w sprawie wykonania dekretu Polskiego Komitetu Wyzwolenia Narodowego z 6 września 1944 roku o przeprowadzeniu reformy rolnej („Dziennik Ustaw" 1945, nr 10, poz. 51 z późn. zm.);

- Decree of November 28, 1945, on the seizure of certain land properties for the purposes of land reform and settlement ("Journal of Laws" 1945, No. 57, item 321.); [in Polish: Dekret z 28 listopada 1945 roku o przejęciu niektórych nieruchomości ziemskich na cele reformy rolnej i osadnictwa („Dziennik Ustaw" 1945, nr 57, poz. 321.)];
- Decree of August 8, 1946, on the entry into the land and mortgage registers of the ownership of property seized for the purposes of land reform ("Journal of Laws" 1946, No. 39, item 233, as amended); [in Polish: Dekret z 8 sierpnia 1946 roku o wpisywaniu w księgach wieczystych prawa własności nieruchomości przejętych na cele reformy rolnej ("Journal of Laws" 1946, nr 39, poz. 233 z późn. zm.)];
- Decree of September 5, 1947, on the transfer to state ownership of property left behind by persons resettled to the USSR ("Journal of Laws" 1947, No. 59, item 318, as amended). [in Polish: Dekret z 5 września 1947 roku o przejściu na własność Państwa mienia pozostałego po osobach przesiedlonych do ZSRR ("Journal of Laws" 1947, nr 59, poz. 318 z późn. zm.);
- Decree of July 27, 1949, on the seizure of landed property not in the actual possession of the owners, located in certain districts of the Białystok, Lublin, Rzeszów and Cracow provinces ("Journal of Laws" 1949, No. 46, item 339, as amended); [in Polish: Dekret z 27 lipca 1949 roku o przejęciu na własność Państwa nie pozostających w faktycznym władaniu właścicieli nieruchomości ziemskich, położonych w niektórych powiatach województwa białostockiego, lubelskiego, rzeszowskiego i krakowskiego („Dziennik Ustaw" 1949, nr 46, poz. 339 z późn. zm.);
- Decree of April 18, 1955, on enfranchisement and regulation of other issues related to the agrarian reform and agricultural settlement, (consolidated text: "Journal of Laws" 1959, No. 14, item 78, as amended); [in Polish: Dekret z 18 kwietnia 1955 roku o uwłaszczeniu i uregulowaniu innych spraw związanych z reformą rolną i osadnictwem rolnym, (tekst jednolity: „Dziennik Ustaw" 1959, nr 14, poz. 78 z późn. zm.)];
- Law of March 12, 1958, on the sale of state-owned agricultural real estate and the ordering of certain issues related to the implementation of the land reform and agricultural settlement ("Journal of Laws" 1958, No. 17, item 71, as amended). [in Polish: Ustawa z 12 marca 1958 roku o sprzedaży państwowych nieruchomości rolnych oraz uporządkowaniu niektórych spraw związanych z przeprowadzeniem reformy rolnej i osadnictwa rolnego („Dziennik Ustaw" 1958, nr 17, poz. 71 z późn. zm.)].

The post-war transition of land property from private the public ownership took place largely according to the September 6, 1944 Decree of the Polish Committee for National Liberation on the Execution of the Land Reform, that is, on the basis of a general nationalisation law defining the characteristics of property subject to transfer by operation of law to the State Treasury. The formal, and at the same time propagandistic, justification for the communist authorities to carry out the land reform was included in the wording of Article 1, paragraph 1 of the September 6, 1944 Decree of the Polish Committee for National Liberation on the Execution of the Land Reform. This is because it stated that "Agrarian reform in Poland is a state and economic necessity and will be implemented with the participation of the social factor, in accordance with the principles of the Manifesto of the Polish Committee for National Liberation. The agricultural system in Poland will be based on strong and healthy production farms capable of being expended, which are the private property of their owners".[16] The post-war transfer of land property from private to public hands was carried out largely according to the September 6, 1944 decree of the Polish Committee for National Liberation on executing the land reform, i.e. on the basis of a general nationalisation law defining the characteristics of property subject to transfer by operation of law to the State Treasury.

In turn, the catalogue of real estate transfer under Article 2, paragraph 1 of the Decree of the Polish Committee for National Liberation of September 6, 1944, on the implementation of land reform into the ownership of the State Treasury in its entirety, immediately, and without any compensation was defined as follows: "For the purposes of the agrarian reform, landed property of an agricultural nature: a) owned by the State Treasury under any title; b) owned by citizens of the German Reich and Polish citizens of German nationality; c) owned by persons convicted of high treason, for aiding the occupying forces to the detriment of the State or the local population, or for other crimes provided for in the Decree of the Polish Committee for National Liberation of September 12, 1944 (Dz. U. R. P. No. 4, item 16); d) confiscated for any other reason; owned or co-owned by natural or legal persons, if their total size exceeds either 100 hectares of the general area or 50 hectares of agricultural land, and in the Poznań, Pomeranian and Silesian provinces, if their total size exceeds 100 hectares of the general area, regardless of the size of the agricultural land of that area".[17] Subsequently, pursuant to the decree of January 17, 1945 (Journal of Laws No. 3, item 9), an amendment was made to include non-agricultural land properties in the agricultural reform by deleting the words "of an agricultural nature" in the first sentence of Article 2, paragraph 1. Thus, it should be stated that although initially the agrarian reform was intended to cover only

16 | Decree of the Polish Committee of National Liberation of 6 September 1944 on the performance of the agricultural reform (consolidated text: Journal of Laws 1945, No. 3, item 13, as amended).
17 | Decree of the Polish Committee for National Liberation of 6 September 1944 on the execution of the agricultural reform (consolidated text: Journal of Laws 1945, No. 3, item 13, as amended).

actually agricultural landed property, the amendment made landed property that was not agricultural in nature also subject to agrarian reform.

However, crucial from the aspect of the consequences of executing the land reform in Poland is the wording of Article 2, paragraph 2, of the September 6, 1944 Decree of the Polish Committee for National Liberation on carrying out the land reform, which authoritatively states that "All landed property, referred to in points b, c, d and e, of the first part of this article, shall pass immediately, without any compensation, in its entirety, to the State Treasury for [land reform] purposes". At the same time, as J. Antosiewicz notes, the Decree of the Polish Committee for National Liberation of September 6, 1944, as well as the associated executive acts, did not define the concept of landed property, which made it necessary for the Polish Constitutional Court to deal with it in its resolution of September 19, 1990 (W 3/89).[18]

The individual assets seized by the state as part of the nationalisation of landed property were specified in detail in the Ordinance of the Minister of Agriculture and Agrarian Reform of March 1, 1945, on the implementation of the decree of the Polish Committee for National Liberation of September 6, 1944, on carrying out land reform. Thus, according to Article 11, paragraphs 1 and 2 of the same decree, the land reform did not involve: "items for the personal use of the owner of the seized property and members of their family such as clothing, footwear, bedding, jewellery, furniture, kitchen utensils, etc..., not related to the operation of the farm and if they had no scientific, artistic or museum value; stocks of household larder items; animals and rooming birds; any items personally owned by the tenants and their family; livestock and dead stock owned by tenants, whereby this circumstance had to be proven by documents; the part of the harvest from the last marketing year essential to ensure the tenants' and their family's own needs and dues for the labour of agricultural workers".[19] At the same time, this exemption was not strictly adhered to by the communist authorities, since, as A. Wiktor points out, "In violation of the law (...) not only were seeding machines taken into possession, but also family furniture and often paintings of ancestors handed down to descendants from generation to generation as the most valuable family valuables. And yet these possessions were supposed to be exempt from the provisions of the decree of the Minister of Agriculture and Agrarian Reform of March 1945. This was expropriation from everything without exception".[20]

The land reform scheme outlined by the Communist authorities meant that the transition of property rights from the private domain to the public domain took

18 | See. J. Antosiewicz, Reprywatyzacja, Warszawa 1993, 8.
19 | Ordinance of the Minister of Agriculture and Agrarian Reform of March 1, 1945 on the implementation of the decree of the Polish Committee for National Liberation of September 6, 1944 on carrying out the land reform ("Journal of Laws" 1945, No. 10, item 51, as amended).
20 | A. Wiktor, Losy ruchomych dóbr kultury ziemiaństwa w woj. rzeszowskim po zakończeniu II wojny światowej w latach 1944-1947, Rzeszów 2008, 256.

place *ex lege* on the day the decree came into effect, that is, as early as September 6, 1944, and thus it was unnecessary to issue any administrative decisions. Despite the fact that the decree provided for the transfer of property rights *ex lege*, it should be mentioned that the Decree of the Minister of Agriculture and Agrarian Reform of March 1, 1945 (on the implementation of the decree of the Polish Committee for National Liberation of September 6, 1944 on the execution of the land reform) introduced a certain possibility of appeal in paragraph 5 in the form of the possibility of addressing objections to the competent Provincial Land Office in the first instance, and to the Minister of Agriculture and Agrarian Reform in the second. However, this possibility was limited in nature, and should be considered declaratory.

Moreover, landowners were deprived of any form of compensation for their lost property. In fact the entitlement, provided for in Article 17 of the Decree of the Polish Committee for National Liberation, for owners of landed property listed in Article 2(1)(e) to receive either an independent farm outside the county in which the expropriated property was located, or a lifetime provision in the amount of a clerical salary of the sixth group (later converted to the lowest disability pension), cannot be considered as a compensation. However, this compensation provided by the communist authorities for the property confiscated was not only not "equivalent", but was of a rather purely declaratory nature. For, as A. Wiktor notes, "despite the fact that the provisions of the decree offered the possibility of receiving an independent farm outside the county where the expropriated property was located, such as in the Recovered Territories, the percentage of landowners who took advantage of this opportunity was negligible. Due to the persecution, most of them preferred to disappear, to melt into the urban crowd".[21]

At the same time, it should also be noted that the Decree on the Execution of the Land Reform and the Decree of the Minister of Agriculture and Agrarian Reform of March 1, 1945, on Implementing the Decree of the Polish Committee of National Liberation of September 6, 1944, on the Execution of the Land Reform had both a nationalisation aspect and an enfranchisement aspect. This interesting element of the land reform is pointed out, for example, by T. Luterek, who states that the above-mentioned regulations "were also the first privatization regulations of the communist government"[22]. This is because they first regulated the mode of transition of individual property rights from the private domain (landowners) to the public domain (the Treasury), and then determined the method of their redistribution, i.e. the transition from the public domain (the Treasury) to the private domain (peasants).

It should also be mentioned that in addition to the Decree of the Polish Committee for National Liberation of September 6, 1944 (on the implementation of the

21 | A. Wiktor, Losy ruchomych dóbr kultury ziemiaństwa w woj. rzeszowskim po zakończeniu II wojny światowej w latach 1944-1947, Rzeszów 2008, 256.
22 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 106.

land reform), and the Decree of the Minister of Agriculture and Agrarian Reform of March 1, 1945(on the implementation of the Decree of the Polish Committee for National Liberation of September 6, 1944, on the execution of the land reform), the issue of transfers of landed property was also regulated by the Decree of November 28, 1945, on the seizure of certain landed property for the purposes of land reform and settlement, as neither of the former acts covered certain property situations in their scope, and the communist authorities sought to regulate them legally. Thus, pursuant to Article 1 of the Decree of November 28, 1945, on the seizure of certain landed properties for the purposes of land reform and settlement, the Polish state was able to seize landed properties not covered by the Decree of the Polish Committee for National Liberation of September 6, 1944, on the execution of the land reform, namely: "properties left behind by persons resettled in the Union of Soviet Socialist Republics; properties which, in connection with the war or occupation, were allocated for special purposes with a modification regarding the type of use (training grounds, airfields, afforestation, roads, etc.), if it was not in the interest of the state to maintain this type of use; any landed property with the consent of the owner; any landed property which, in the course of carrying out the land reform, was actually parcelled out by August 1, 1945".[23] What distinguished the nationalisation carried out pursuant to the Decree of November 28, 1945, on the Seizure of Certain Landed Properties for the Purposes of Land Reform and Settlement from the nationalisation carried out pursuant to the Decree of the Polish Committee for National Liberation of September 6, 1944, on the Purpose of Land Reform, and the Decree of the Minister of Agriculture and Agrarian Reform of March 1, 1945, on the Implementation of the Decree of the Polish Committee for National Liberation of September 6, 1944, on the Purpose of the Land Reform was its explicit stipulation of the issue of compensation for the seized property. Indeed, the provisions of the Decree of November 28, 1945, on the seizure of certain landed property for the purposes of the land reform and settlement of the land reform implied an entitlement for owners of landed property specified in the Decree to receive compensation for lost property in the form of obtaining landed property of equal value and quality, with the method of estimating the value of the seized landed property itself to be specified in the instructions of the Minister of Agriculture and Agrarian Reform.

At the same time, it should be pointed out, according to T. Luterek, that although "the land was transferred to the peasants cost-free, [there was] an obligation to repay the land in the amount of one annual crop, which constituted an extraordinary income for the state. In the realities of the time, such a payment was often a very heavy burden on the peasants, but on balance the real amount for which they acquired the land was extremely favourable".[24]

23 | Decree of November 28, 1945 on the seizure of certain landed properties for the purposes of land reform and settlement, "Journal of Laws" 1945, No. 57, item 321.
24 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 111.

The regulations discussed above in the form of the decree of the Polish Committee for National Liberation of September 6, 1944, on the implementation of the land reform, and the decree of November 28, 1945, on the seizure of certain landed properties for the purposes of land reform and settlement for the purposes of land reform are considered the most important legal acts in terms of the scale and scope of the transition of ownership of landed properties; however, it is reasonable to also present other legal regulations of a nationalisation nature that were issued by the authorities of the People's Republic of Poland.

Thus, one should mention, for example, the decree of September 6, 1946, on the agricultural system and settlement in the area of the Recovered Territories and the former Free City of Danzig (Journal of Laws No. 49, item 279, as amended), in Article 1 of which it was stipulated that "For the establishment of farms and settlement plots and the replenishment of non-viable farms, all landed properties are allocated in the area of the Recovered Territories and the former Free City of Danzig, with the exception of those which, on the effective date of this decree, are owned by natural persons". At the same time, in Article 42 of the same decree, the scope is further clarified by stating that land properties that are not in the possession of the previous owners on the date of entry into force of this decree may also be taken into state ownership and be included in the land stock referred to in Article 1.

Another important legal act issued by the communist authorities during this period is the decree of September 5, 1947, on the transfer of property to the State from persons resettled to the USSR, according to Article 1 of which all movable and immovable property of persons resettled to the USSR remaining on the territory of the Polish State shall, by operation of law, pass onto the State without compensation upon the resettlement of such persons. It should be stated that the property subject to nationalisation included landed property, belonging to both natural persons and legal entities, whose very existence or operation was not justified as a result of the resettlement to the USSR.

It is also impossible to overlook the decree of July 27, 1949, on taking over to the State ownership of landed properties not in the actual possession of the owners, located in certain districts of the Białystok, Lublin, Rzeszów and Cracow provinces. According to paragraph 1 of Article 1 of the decree, land properties located in the Białystok, Lublin, Rzeszów and Cracow provinces within the border belt, (...) and in the Bilgoraj, Krasnystaw and Lublin districts of the Lublin province and the Brzozow and Przeworsk districts of the Rzeszow province could "be taken over into the ownership of the State in whole or in part, if they do not remain in the actual possession of the owners"[25], while according to paragraph 2 of the same article, the regulation also applied "to real estates located in the area specified in that

25 | Decree of July 27, 1949, on the seizure of landed properties not in the actual possession of the owners, located in certain districts of the Białystok, Lublin, Rzeszów and Cracow provinces, "Journal of Laws" 1949, No. 46, item 339, as amended.

paragraph, and remaining in the use, lease or management of third parties, if the owner does not reside there".[26]

In conclusion, it must also be said that the nationalisation processes in the field of landed property did not end in the 1940s, but continued into the 1950s, as exemplified by the Decree of April 18, 1955, on enfranchisement and the regulation of other issues related to the land reform and agricultural settlement, and the Law of March 12, 1958, on the sale of property of the State Land Fund and the ordering of certain issues related to the implementation of the land reform and agricultural settlement.

Thus, pursuant to Article 15 of the Decree of April 18, 1955, on enfranchisement and the regulation of other issues related to the land reform and agrarian settlement, a farm that was acquired on the basis of the decree of the Polish Committee for National Liberation of September 6, 1944, on the implementation of the land reform and the decree of November 28, 1945, on the seizure of certain landed properties for the purposes of land reform and settlement for the purposes of land reform, and subsequently abandoned by the owner before the effective date of the decree passed *ex lege* and without compensation to the State, free of encumbrances except for easements. As for the law of March 12, 1958, on the sale of state-owned agricultural real estate and the ordering of certain issues related to the carrying out of the agrarian reform and agricultural settlement, it should be emphasized that in Article 9(1) it stipulated the taking over by the State of agricultural and forestry real estate under the State's ownership prior to the entry into force of the law, as long as it remained under the State's ownership or was transferred for use to other natural or legal persons.

Legal regulations on the nationalisation of forests and forest lands

Legal regulations on the transition of ownership of forests and forest land from the private domain to the public domain were included in the following legal acts issued by the communist authorities of the time:

- Decree of the Polish Committee for National Liberation of December 12, 1944, on the taking of certain forests into the ownership of the State Treasury; [in Polish] Dekret Polskiego Komitetu Wyzwolenia Narodowego z 12 grudnia 1944 roku o przejęciu niektórych lasów na własność Skarbu Państwa
- The Act of November 18, 1948, on the transfer of certain forests and other local government land into State ownership; [in Polish: Ustawa z 18 listopada 1948

26 | Decree of July 27, 1949, on the seizure of landed properties not in the actual possession of the owners, located in certain districts of the Białystok, Lublin, Rzeszów and Cracow provinces, "Journal of Laws" 1949, No. 46, item 339, as amended.

roku o przejściu na własność Państwa niektórych lasów i innych gruntów samorządowych]

Bringing about the transfer of ownership of forests and forest land was a priority element of the communist authorities' policy, in a way complementing the land reform that had begun, in terms of property management. At the same time, the legal basis for the transfer of property in this case was the Decree of the Polish Committee for National Liberation of December 12, 1944, on the transfer of certain forests to the State Treasury. According to Article 1 of the decree, forests and forest lands with an area of more than 25 hectares, owned by natural persons or legal entities, were transferred into the ownership of the State Treasury. In addition to forests and forest land, all mid-forest land, meadows and waters, deputation land of the forest administration and forest guards, real estate and movable property located on forest facilities (regardless of their use), real estate and movable property serving the operation of forest farm, and all material stocks, both in the forest and in industrial plants, were also subject to transfer into state ownership.

At the same time, it should also be emphasised that in the case of citizens of the German Reich, non-Poles and Polish citizens of German nationality, the figure of 25 hectares of area was not used as a limit for being subject to the nationalisation legislation. This is because the Decree of the Polish Committee for National Liberation of December 12, 1944, on taking over certain forests into the ownership of the State Treasury stipulated the transfer of the entirety — regardless of the area occupied by them — of forests and forest lands, together with economically linked non-forest lands and other real estate and movables, belonging to citizens of the German Reich, non-Poles and Polish citizens of German nationality, into the ownership of the State Treasury.

Initially, forest properties belonging to local governments were excluded from the transfer of ownership of forests and forest land to the state, but the communist authorities decided to take this step by enacting the Law of November 18, 1948, on the transfer of certain forests and other local government land to the State. As a result, the communist authorities' bringing about the seizure of forests and forest land from previous owners resulted in a significant portion of the country's area — as forests accounted for one-fifth of Poland's territory — being in the hands of the communist-ruled state, which exercised custody over them through the institution of the State Forests.

Summary

Summarising the nature and legality of property transformations in Poland during World War II and the first post-war years, it should be noted that a significant part of the radical transformations made by the communist authorities — which shaped the new social and economic relations in Poland — took the form of decrees issued by the Polish Committee for National Liberation. This entity issued decrees under the delegation included in the Act of the National Council of August 15, 1944, on the provisional procedure for issuing decrees with the force of law.

At the same time, it should be stated that the decrees issued under delegation by the Polish Committee for National Liberation could not be considered legal under the provisions of constitutional rank — neither under the March Constitution of 1921 nor under the April Constitution of 1935 —, since they either did not provide for a decree as a source of law at all, or they did not legitimise the communist authorities. Both the National Council and the Polish Committee for National Liberation were therefore not bodies authorised to legislate on behalf of the nation, and the actions they carried out were not supported by constitutional provisions. Thus, the legitimacy of the communist organs was suspended in a legislative vacuum, since the legal act that defined the scope of the legislative authority of the National Council was the "Manifesto of the Polish Committee for National Liberation", that is, the act of the body authorised to issue decrees with the force of law by the National Council itself. Therefore, analysing the existing relationship between the then quasi-legislative authority in the form of the National Council and the quasi-executive authority in the form of the Polish Committee for National Liberation, one should note the duplication of apparent legitimacy to exercise power. By the same token, one should agree with the position presented by T. Lutherk, whose opinion: "De jure, a law enacted by unauthorised bodies is lawless or simply not a law. The nationalisation acts that have been issued by these illegal authorities cannot be considered to be an established law, i.e. a law universally applicable in an independent state. In this case, the principle of effectiveness can be reduced to the acceptance of the actual exercise of power by these authorities, while the mere exercise of power cannot mean, eo ipso, that the actions taken by it are convalidated and pass from the realm of factual to the realm of legally effective activity, for these actions do not constitute the exercise of law"[27].

In the context of the legality of the nationalisation acts issued by the communist authorities in the 1940s (including the Land Reform Decree, as well as the Law Concerning the Nationalisation of Industry and the Warsaw Land Decree), it should also be mentioned that even under the assumption granting the then authorities the right to issue nationalisation regulations, the nationalisation acts they actually

27 | T. Luterek, Reprywatyzacja: źródła problemu, Warszawa 2016, 92.

issued were not lawful. This is clear from the wording of the provision contained in Article 99 of the March Constitution, which, nota bene, was not derogated by Article 81 of the April Constitution, and which was subsequently incorporated into the principles of the system formulated in the "Small Constitution" of February 19, 1947.[28]

In turn, the content of this article was as follows: "The Republic of Poland recognises all property, whether personal property of individual citizens or collective property of associations of citizens, institutions, self-governing bodies and finally the State itself, as one of the most important foundations of the social system and legal order, and guarantees to all citizens, institutions and communities the protection of their property, and permits only in cases, provided by law, the abolition or limitation of property, whether personal or collective, for reasons of higher utility, with compensation. Only a law can determine what property and to what extent, for the benefit of the general public, is to be exclusively the property of the State, and to what extent the rights of citizens and their legally recognised associations may, for public reasons, be restricted in the free use of land, waters, minerals and other natural treasures. Land, as one of the most important factors in the existence of the nation and the State, cannot be subject to unlimited trading. Laws shall determine the State's right to the compulsory purchase of land, and regulate the circulation of land, understanding the principle that the agricultural system of the Republic of Poland is to be based on farms capable of viable production and personally owned".[29] Thus, this provision stipulated the state's obligation to pay compensation to ensure the legality of any abolition or restriction of property rights, while de facto no compensation was paid to owners whose property passed into the public domain as a result of the post-war ownership transition. Consequently, we can state that the nationalisation of agricultural lands and forests in Poland after World War II, carried out by the communists in Poland, did not comply with the law, especially with the constitutional issue of pre-war Poland.[30]

28 | Constitutional Law of February 19, 1947 on the System and Scope of Action of the Supreme Authorities of the Republic of Poland, (Journal of Laws 1947, No. 18, item 71).

29 | Law of March 17, 1921. - Constitution of the Republic of Poland. (Journal of Laws of 1921 No. 44, item 267).

30 | See more about the legal aspects of the nationalisation of agricultural lands and forests in Poland after World War II: P. A. Blajer, The constitutional aspect of regulations limiting agricultural land transactions in Poland [in:] JAEL 2022/32 pp: 7-26; A. Kubaj, Legal frame for the succession/transfer of agricultural property between the generations and the acquisition of agricultural property by legal persons – in Poland [in:] JAEL 29/2020, 118-132.

Bibliography

Legal acts

1. Constitutional Law of February 19, 1947 on the System and Scope of Action of the Supreme Authorities of the Republic of Poland, (Journal of Laws 1947, No. 18, item 71).
2. Decree of the Polish Committee of National Liberation of 6 September 1944 on the performance of the agricultural reform (consolidated text: Journal of Laws 1945, No. 3, item 13, as amended).
3. Ordinance of the Minister of Agriculture and Agrarian Reform of March 1, 1945 on the implementation of the decree of the Polish Committee of National Liberation of September 6, 1944 on carrying out land reform ("Journal of Laws" 1945, No. 10, item 51, as amended).
4. Decree of November 28, 1945 on the seizure of certain landed properties for the purposes of land reform and settlement, "Journal of Laws" 1945, No. 57, item 321.
5. Decree of July 27, 1949 on the seizure of landed properties not in the actual possession of the owners, located in certain districts of the Białystok, Lublin, Rzeszów and Cracow provinces, "Journal of Laws" 1949, No. 46, item 339, as amended.
6. Constitutional Law of February 19, 1947 on the System and Scope of Action of the Supreme Authorities of the Republic of Poland, (Journal of Laws 1947, No. 18, item 71).
7. Law of March 17, 1921. - Constitution of the Republic of Poland. (Journal of Laws of 1921 No. 44, item 267).
8. The Manifesto of the Polish Committee for National Liberation (Annex to OJ 1944 No. 1).

Judgments

9. Order of the Constitutional Court of November 28, 2001, SK 5/2001, "Ruling of the Constitutional Court," 2001, no. 8/2001, item 266.

Articles

10. Blajer P.A., *The constitutional aspect of regulations limiting agricultural land transactions in Poland* [in:] JAEL 2022/32, 7-26;
11. Kubaj A., *Legal frame for the succession/transfer of agricultural property between the generations and the acquisition of agricultural property by legal persons – in Poland* [in:] JAEL 29/2020; 118-132.

Books

12. Antosiewicz J., *Reprywatyzacja*, Wydawnictwo Prawnicze, Warszawa 1993
13. Bałtowski M., *Gospodarka socjalistyczna w Polsce*, Wydawnictwo Naukowe PWN, Warszawa 2009
14. Kaliński J., *Historia gospodarcza XIX i XX wieku*, Polskie Wydawnictwo Ekonomiczne, Warszawa 2004
15. Kowalik T., *Spory o ustrój społeczno-gospodarczy w Polsce. Lata 1944-1948,* Wydawnictwo Key Text, Warszawa 2006,
16. Luterek T., *Reprywatyzacja: źródła problemu*, Instytut Studiów Politycznych Polskiej Akademii Nauk, Warszawa 2016
17. Sopiński M., *Problem reprywatyzacji : doświadczenia, argumenty, rozwiązania*, Wydawnictwo IWS, Warszawa 2020.
18. Wiktor A., *Losy ruchomych dóbr kultury ziemiaństwa w woj. rzeszowskim po zakończeniu II wojny światowej w latach 1944-1947*, PhD thesis, Rzeszów 2008